IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

MFA.No. 1087 of 2001(B)

O.P(MV).NO.398/1994 OF ADDL. MOTOR ACCIDENTS CLAIMS TRIBUNAL, MAVELIKKARA.
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APPELLANT/ PETITIONER:

B. SUNDERDAS,
SUSHAS, KALLUVARAMBU CHERRY,
VATTAPPARA, NEDUMANGADU,
THIRUVANANTHAPURAM,
NOW RESIDING AT SUSHAS, VARINJAM,
KARAMCODE.P.O., KOLLAM - 691 579.

BY ADV. SRI.B.SURESH KUMAR,
ADV. SMT.C.G.PREETHA,
ADV. SMT.V.S.UMA.

RESPONDENTS/ RESPONDENTS:
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1. **P.K. JOY,**
   PAYAPPAN HOUSE,
   PARIYARAM.P.O.,
   THRISSUR.

2. **T.K. RAJAN,**
   KOMATHERI HOUSE,
   ALUMPEEDIKA,
   OACHIRA.

3. **THE NATIONAL INSURANCE COMPANY LTD.,**
   BRANCH OFFICE, KAYAMKULAM.

R3 BY ADV. SRI.E.M.JOSEPH.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 07/12/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. Koshy & K.Hema, JJ.

M.F.A.No. 1087 of 2001

Dated this the 7th day of December, 2007

Judgment

Koshy,J.

Appellant while driving a car sustained serious injuries in an accident on 18.11.1993 when a Mitsubishi lorry bearing registration No.KEQ 2583 driven by the first respondent and insured by the third respondent insurance company hit the car. He filed application for compensation of Rs.Five lakhs contending that the accident occurred due to the negligence of the driver of the lorry. The tribunal found that the accident occurred as alleged and the lorry was insured by the third respondent insurance company, but, awarded only Rs.97,800/- as compensation.

2. Ext.A5 wound certificate shows that he had compound fracture of right femur and fracture of lower third of right humerus and contusion on the chest. Wound debridement was done and skeletal traction was given. Ext.A11 disability certificate shows that he had 28% disability. He was employed as a driver in the

Quilon Co-operative Spinning Mills Limited, Chathannur with a monthly salary of Rs.2,200/-. The tribunal did not grant compensation on the basis of a multiplier method as his employment was not affected and salary was not reduced even though he had taken some leave. But, since disability may affect the efficiency of the appellant and likelihood of getting a job after retirement Rs.40,000/- was granted for disability and loss of earning power. We see no ground to interfere in the same.

3. With regard to the medical expenses, the tribunal found that he was getting reimbursement from E.S.I. Corporation and he got E.S.I. leave benefits also. Therefore, leave wages was not granted. Apart from the E.S.I. benefits, there will be several expenses in the hospital which are not actually covered by bills for claiming reimbursement. Therefore, we award Rs.5,000/- towards expenses for the long period of treatment he had undergone. We are of the opinion that just and reasonable compensation was granted by the tribunal under all other heads. The above additional amount of Rs.5,000/- should be deposited by the third respondent insurance company with 7.5% interest from the date of application till its deposit over and above the amount awarded by the tribunal.

On deposit of the above amount, the appellant is allowed to withdraw the same.

J.B.Koshy
Judge

K. Hema
Judge

vaa

J.B. KOSHY AND
K.HEMA,JJ.

M.F.A. No. 1087 of 2001

Judgment

Dated:7th December, 2007